

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

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Guardian Angels Health
and Rehabilitation Center,
a Minnesota non-profit
private corporation,

Plaintiff,

vs.

REPORT AND RECOMMENDATION

Cal R. Ludeman, in his official
capacity as Commissioner,
Minnesota Department of Human
Services,

Defendant.

Civ. No. 06-3353 (JNE/RLE)

* * * * *

On January 22, 2007, the Court conducted a Status Conference on the parties' joint Stipulation to indefinitely stay these proceedings. See, Docket No. 12. At the time of the Hearing, the Plaintiff appeared by Joseph J. Roby, Jr., Esq., and the Defendant appeared by Daniel S. Goldberg, Assistant Minnesota Attorney General. We recommend that the joint request for a stay be granted.

By way of background, the Plaintiff's Complaint challenges the validity of Minnesota Statutes Section 256B.431, Subdivision 41, as applied to the Plaintiff. See,

Complaint, Docket No. 1. The parties have subsequently engaged in settlement discussions, and currently believe that this matter can be resolved amicably through action by the Minnesota Legislature. In their Stipulation, the parties represent that they are willing to postpone all litigation activity until June 1, 2007, in order to allow the Minnesota Legislature to act, without the incurrence of additional effort and money.

Since it plainly appears that this case could soon be dismissed by the parties -- dependent upon the actions of the Minnesota Legislature by June 1, 2007 -- we are persuaded that awaiting the Legislature's action is warranted. Accordingly, we recommend that this case be placed in an Administrative Stay until we hear further from the parties. If the parties submit a Stipulation of Dismissal, then the case can be closed and, if the activities of the Minnesota Legislature do not resolve the current dispute, then the case can be reopened, but no purpose would be now served by requiring the parties to engage in what might be costly discovery, and pretrial Motion practice.

NOW, THEREFORE, It is --

RECOMMENDED:

That this case be placed in Administrative Stay until further Order of the Court.

Dated: January 22, 2007

s/Raymond L. Erickson
Raymond L. Erickson
CHIEF U.S. MAGISTRATE JUDGE

N O T I C E

Pursuant to Rule 6(a), Federal Rules of Civil Procedure, D. Minn. LR1.1(f), and D. Minn. LR72.2, any party may object to this Report and Recommendation by filing with the Clerk of Court, and by serving upon all parties **by no later than February 5, 2007**, a writing which specifically identifies those portions of the Report to which objections are made and the bases of those objections. Failure to comply with this procedure shall operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals.

If the consideration of the objections requires a review of a transcript of a Hearing, then the party making the objections shall timely order and file a complete transcript of that Hearing **by no later than February 5, 2007**, unless all interested parties stipulate that the District Court is not required by Title 28 U.S.C. § 636 to review the transcript in order to resolve all of the objections made.